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by 28 U.S.C. § 515
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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LIEN TRAN,

Defendant.

No. CR 15-662-ODW-16

GOVERNMENT'S SENTENCING POSITION
RE: DEFENDANT LIEN TRAN

Sentencing

Date and Time: July 17, 2023
11:00 a.m.

Plaintiff United States of America, by and through its counsel
of record, the United States Attorney for the Central District of
California and Assistant United States Attorney Karen I. Meyer,
hereby files its sentencing position paper.

This position is based upon the attached memorandum of points
and authorities, the files and records in this case, and such further

evidence and argument as the Court may permit.

Dated: July 11, 2023

Respectfully submitted,

JOSEPH T. McNALLY
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MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

A. Offense Conduct and Plea

Defendant pled guilty to helping her husband and co-defendant Ben Ho with a \$350,000 money laundering transaction by accepting that cash from an informant in exchange for two wires that Ho sent two days prior to what he believed was the informant's bank account, but was in actuality an account controlled by the Federal Bureau of Investigation ("FBI"). Pursuant to a binding Rule 11(c)(1)(C) plea agreement, defendant agreed to the following facts:

On or about May 30, 2013, at defendant's home in Santa Ana, California, within the Central District of California, defendant met with an individual who defendant believed to be an associate of co-defendant Ho, but who was actually a Confidential Source ("CS") working for the FBI. Inside her home, defendant accepted \$350,000 from the CS on Ho's behalf in exchange for a wire transfer that Ho believed he was sending to the CS. Defendant did so with the intent to avoid a transaction reporting requirement under State or Federal law. During that interaction, the CS told defendant that the \$350,000 was "drug money that [he had] to filter."

By accepting \$350,000 on Ho's behalf from the CS, defendant was aware that there was a high probability that Ho was engaged in laundering of proceeds of drug trafficking with the CS, and defendant deliberately avoided learning the truth about that fact.

B. USPO Guideline Calculation

The United States Probation Office ("USPO") prepared a Pre-Sentence Report and Recommendation ("PSR") calculating a criminal history category of I and adjusted total offense level of 19. (PSR

¶¶ 52, 58.) The USPO calculated the adjusted total offense level based on a base offense level of 8, U.S.S.G. § 2S1.1(a)(2), plus the number of offense levels from the table in U.S.S.G. § 2B1.1 corresponding to the value of the laundered funds, which was in this case plus twelve levels for an amount of at least \$250,000 but no more than \$550,000, U.S.S.G. § 2B1.1(b)(1)(G),¹ and plus two levels for a conviction under 18 U.S.C. § 1956, U.S.S.G. § 2S1.1(b)(2)(B). (PSR ¶¶ 38-52.) The adjusted total offense level and criminal history category calculated by the USPO resulted in a sentencing range of 30 to 37 months. (PSR, Guideline Summary.) USPO recommended a three-year probationary sentence with six months of home detention, a special assessment of \$100, and a \$6,000 fine. (PSR Recommendation Letter.)

The government concurs in these guidelines calculations, as they are the calculations set forth in the binding plea agreement. These guidelines calculations are the "initial benchmark" that this Court should use in calculating the Guidelines for sentencing. See United States v. Henderson, 649 F.3d 955, 964 (9th Cir. 2011).

II. GOVERNMENT SENTENCING RECOMMENDATION

The government concurs with the probation officer's recommendation for three years probation under the terms set forth in the PSR recommendation letter, with six months home detention, and a \$6,000 fine. The probationary sentence is supported by the nature and circumstances of the offense and history and characteristics of the defendant. See Henderson, 649 F.3d at 964 (After properly calculating the Guidelines range, "[s]entencing courts must also

¹ In the PSR recommendation letter on page 3, the probation officer mistakenly references the amount of cash as \$135,000.

1 continue to consider all of the § 3553(a) factors in deciding upon
2 the sentence."). First, defendant has no criminal history. Second,
3 defendant was brought into this criminal activity by her husband and
4 co-defendant. Third, defendant's criminal conduct was limited.

5 Defendant objects to home detention on the ground that defendant
6 will be unable to financially support her family if she is in home
7 detention. This is incorrect. Application note 1 of U.S.S.G.
8 § 5F1.2 specifically addresses this concern when defining "home
9 detention":

10 **"Home detention"** means a program of confinement and
11 supervision that restricts the defendant to his place of
12 residence continuously, except for authorized absences,
13 enforced by appropriate means of surveillance by the
14 probation office. When an order of home detention is
15 imposed, the defendant is required to be in his place of
16 residence at all times except for approved absences for
17 gainful employment, community service, religious services,
18 medical care, educational or training programs, and such
19 other times as may be specifically authorized....

20 U.S.S.G. § 5F1.2, n.1 (emphasis added). Further in that same
21 commentary under "Background," the guidelines specify the following:
22 "In the usual case, the Commission assumes that a condition requiring
23 that the defendant seek and maintain gainful employment will be
24 imposed when home detention is ordered." Id.

25 The government also agrees with imposition of a low-end fine of
26 \$6,000, with a payment schedule of at least \$250 per month. (PSR
27 ¶ 102.) A fine or community service is mandatory in this
28 circumstance "unless the court finds on the record that extraordinary
circumstances exist that would make such a condition plainly
unreasonable, in which event the court shall impose one or more of
the other conditions set forth under subsection [3563] (b)." 18
U.S.C. § 3563(a) (2).

1 The government believes that this sentence comports with the
2 considerations set forth in 18 U.S.C. § 3553(a) and takes into
3 account the sentences of other defendants this Court has imposed in
4 this case.

5 III. CONCLUSION

6 For the foregoing reasons, the government recommends a three-
7 year probationary sentence with six months home confinement, a \$100
8 special assessment, and a \$6,000 fine.